

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

BANCORPSOUTH BANK

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:05cv9

ADVANCED PLASTICS INC. et al

DEFENDANTS

ORDER

This cause comes before the court addressing various motions filed in the instant interpleader action. Plaintiff BancorpSouth filed the instant Complaint for Interpleader on January 12, 2005, seeking to interplead \$618,763.08 in funds which it holds in escrow for Advanced Plastics, Inc. In excess of sixty creditors of Advanced Plastics have notified plaintiff of claims against Advanced Plastics exceeding \$1,200,000, and plaintiff seeks for this court to adjudicate the rights of the various creditors to the amount which it has deposited in the registry of this court. While this case promises to be rather complex, the court presently has before it three motions which appear relatively straight-forward. First, plaintiff has moved this court to dismiss a counter-claim asserted against it by defendant Express Services, Inc, and the court concludes that this motion should be granted. Although docketed as a counter-claim, it is apparent from Express Services' complaint that it merely intended, like the other defendants in this action, to assert its right to obtain payment from the funds interplead by BancorpSouth in this case. The court concludes that Express Services may assert this right in its capacity as defendant, and it is unnecessary for it to file a counter-claim in this action.

In light of the foregoing, plaintiff's motion [33-1] to dismiss Express Services' counter-claim will be granted. The court will likewise grant defendant EPI Advanced, LLC's unopposed

motion [52-1] to be dismissed from this action, inasmuch as it asserts no right to the funds interplead by plaintiff. Finally, the court will grant defendant Advanced Plastics' unopposed motion [110-1] for leave to deposit funds in the amount of \$ 9,514.68 in the registry of this court, which amount it concedes it owes to the the creditors/co-defendants in this case.

So ordered, this the 28th day of October, 2005.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE